

James Madison to Thomas Jefferson, January 10, 1801. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.

TO THOMAS JEFFERSON. MAD. MSS.

Jany 10, 1801.

Dear Sir, —Mrs Browne having been detained at Fredg for some time, I did not receive your favor of the 19th in time to be conveniently acknowledged by the last mail. The succeeding one of the 26th came to hand on the 7th instant only, a delay that fixes blame on the post office either in Washington or Fredg. In all the letters & most of the Newspapers which I have lately recd. thro' the post office, there is equal ground for complaint.

I find that the vote of Kentucky establishes the tie between the Repub: characters, and consequently throws the result into the hands of the H. of R. Desperate as some of the adverse party there may be, I can scarcely allow myself to believe that enough will not be found to frustrate the attempt to strangle the election of the people, and smuggle into the Chief Magistracy the choice of a faction. It would seem that every individual member, who has any standing or stake in society, or any portion of virtue or sober understandg must revolt at the tendency of such a manœuvre. Is it possible that Mr. A. shd. give his sanction to it if that should be made a necessary ingredient? or that he would not hold it his duty or his policy, in case the present House should obstinately refuse to give effect to the Constn, to appoint, which he certainly may do before his office expires as early a day as possible, after that event, for the succeeding House to meet, and supply the omission. Should he disappt. a just expectation in either instance, it will be an omen, I think, forbidding the

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steps towards him which you seem to be meditating. I would not wish to discourage any attentions which friendship, prudence, or benevolence may suggest in his behalf, but I think it not improper to remark, that I find him infinitely sunk in the estimation of all parties. The follies of his administration, the oblique stroke at his Predecessor in the letter to Coxe, and the crooked character of that to T. Pinkney¹, are working powerfully agst. him. Added to these causes is the pamphlet of H. which, tho' its

¹ Picketing is meant. See Hamilton's pamphlet in *Works of Hamilton* (Lodge) vi, 391.

recoil has perhaps more deeply wounded the author, than the object it was discharged at, has contributed not a little to overthrow the latter staggering as he before was in the public esteem.

On the supposition of either event, whether of an interregnum in

the Executive, or of a surreptitious intrusion into it, it becomes a question of the first order, what is the course demanded by the crisis. Will it be best to acquiesce in a suspension or usurpation of the Executive authority till the meeting of Congs. in Der. next, or for Congs to be summoned by a joint proclamation or recommendation of the two characters havg a majority of votes for President. My present judgment favors the latter expedient. The prerogative of convening the Legislature must reside in one or other of them, and if both concur, must substantially include the requisite will. The intentions of the people would undoubtedly be pursued. And if, in reference to the Constn., the proceeding be not strictly regular, the irregularity will be less in form than any other adequate to the emergency; and will lie in form only rather than substance; whereas the other remedies proposed are substantial violations of the will of the people, of the scope of the Constitution, and of the public order & interest. It is to be hoped however that all such questions will be precluded by a proper decision of nine States in the H. of R.

I observe that the French Convention is represented as highly obnoxious to the Senate. I should not have supposed that the opposition would be hinged on the article surrendering

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public vessels. As the stipulation is mutual it certainly spares our pride, sufficiently to leave us free to calculate our interest, and on this point there cannot be a difference of opinion. I was less surprized at the obstacle discovered in the British Treaty, the latter of which combined with the repeal of the French Treaty, beget a suspicion that in some quarters at least the present posture of things has been long anticipated. It is certain however that the Convention leaves G. B. on a better footing than the B. Treaty placed her, and it is remarkable that E.1 D.2 & Murray, should have concurred in the arrangement, if it have any real interference with bona fide engagements to G. B. It may be recollected that the privilege given to British prizes was not purchased like that to French prizes, by any peculiar services to us; and never had any other pretext, than the alledged policy of putting the two great rival nations of Europe as nearly as possible on an equal footing. Notwithstanding this pretext for the measure, H. in his late pamphlet acknowledges the error of it. It would be truly extraordinary if a measure intended for this equalizing purpose, should be construable into an insuperable barrier to the equality proposed. It is of vast moment both in a domestic & foreign view, that the Senate should come to a right decision. The public mind is already sore & jealous of that body, and particularly so of the insidious & mischievous policy of the British Treaty. It is strongly

1 Ellsworth.

2 Davie.

averse also to war, and would feel abhorrence of an unjust or unnecessary war with any nation. It is much to be wished that these facts may not be disregarded in the question before the Senate. If there be anything fairly inadmissible in the Convn it would be better to follow the example of a qualified ratification, than rush into a provoking rejection. If there be anything likely, however unjustly, to beget complaints or discontents on the part of G. B. early & conciliatory explanations ought not to be omitted. However difficult our situation has been made, justice & prudence will it is hoped, steer us through it peacefully. In some respects the task is facilitated at the present moment. France has sufficiently manifested her friendly disposition, and what is more, seems to be duly impressed with the

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interest she has in being at peace with us. G. B., however intoxicated with her maritime ascendancy is more dependent every day on our commerce for her resources, must for a considerable length of time look in a great degree to this Country, for bread for herself, and absolutely for all the necessaries for her islands. The prospect of a Northern Confederacy of Neutrals cannot fail, in several views, to inspire caution & management towards the U. S. especially as, in the event of war or interruption of commerce with the Baltic, the essential article of naval Stores can be sought here only. Besides these cogent motives to peace and moderation, her subjects will not fail to remind her of the great pecuniary pledge they have in this Country, and which under any interruption of peace or commerce with it, must fall under great embarrassments, if nothing worse.—As I have not restrained my pen from this hasty effusion, I will add for

your consideration one other remark on the subject. Should it be found that G. B. means to oppose pretensions drawn from her Treaty, to any part of the late one with F. may she not be diverted from it, by the idea of driving us into the necessity of soothing France, by stipulations to take effect at the expiration of the Treaty with G. B. and that wd. be a bar to the renewal of the latter. Or in case the pretensions of G. B. should defeat the Treaty now before the Senate, might not such an expedient be made a plaister for the wound given to F?

My health still suffers from several complaints, and I am much afraid that any changes that may take place are not likely to be for the better. The age and very declining state of my father are making also daily claims on my attention, and from appearances it may not be long before these claims may acquire their full force. All these considerations mingle themselves very seriously with one of the eventual arrangements contemplated. It is not my purpose however to retract what has passed in conversation between us on that head. But I cannot see the necessity, and I extremely doubt the propriety, should the contest in hand issue as is most probable, of my anticipating a relinquishment of my home. I cannot but think, & feel that there will be an awkwardness to use the softest term, in appearing on the political Theatre before I could be considered as regularly called to it, and even

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before the commencement of the authority from which the call would proceed. Were any solid advantage at stake, this scruple might be the less applicable, but it does not occur that the difference of not very many days, can be at all material. As little can I admit that the circumstance of my participation in the Ex. business, could have any such effect on either the majority or minority as has occurred; or if a partiality in any particular friends could be gratified by a knowledge of such an arrangement, that the end would not be as well attained by its being otherwise made known to them that it was to take place, as by its being announced by my appearance on the spot. I only add that I am sensible of the obligation of respecting your conclusion whatever it may finally be, but I cannot but hope that it may be influenced by the considerations which I have taken the liberty to hint.

You may recollect a difficulty suggested in makg. appts. witht. a Senate, in case of resignations *prior to March 4*. How have you solved it?